

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	
)	
v.)	PCB No. 14-3
)	(Citizen Suit)
ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING AND SERVICE

To: ALL PERSONS ON THE ATTACHED CERTIFICATE OF SERVICE

Please take note that today, April 17, 2018, I have filed with the Clerk of the Pollution Control Board the attached Subpoena Duces Tecum for the deposition of David M. Peterson, and have served each person listed on the attached service list with a copy of the same.

Respectfully Submitted,

By: *s/ Evan J. McGinley*
EVAN J. MCGINLEY
ELLEN O'LAUGHLIN
Assistant Attorneys General
Environmental Bureau
69 W. Washington, 18th Floor
Chicago, Illinois 60602
(312) 814-3153
emcginley@atg.state.il.us
eolaughlin@atg.state.il.us
mccaccio@atg.state.il.us

MATTHEW J. DOUGHERTY
Assistant Chief Counsel
Illinois Department of Transportation
Office of the Chief Counsel, Room 313
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-7524
Matthew.Dougherty@Illinois.gov

CERTIFICATE OF SERVICE

Johns Manville v. Illinois Department of Transportation, PCB 14-3 (Citizens)

I, EVAN J. MCGINLEY, do hereby certify that, today, April 19, 2018, I caused to be served on the individuals listed below, by electronic mail, a true and correct copy of the attached Subpoena Duces Tecum for the deposition of a representative of David M. Peterson, each of the parties listed below:

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
Brad.Halloran@illinois.gov

Don Brown
Clerk of the Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

Susan Brice
Lauren Caisman
Robert W. Brunner
Bryan Cave Leighton Paisner LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
Susan.Brice@bryancave.com
Lauren.Caisman@bryancave.com
Robert.Brunner@bclplaw.com

s/ Evan J. McGinley
Evan J. McGinley

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Complainant,)	
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)	(Citizen Suit)
)	
ILLINOIS DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Respondent.)	

SUBPOENA DUCES TECUM

TO: David M. Peterson
7000 Bridlewood Drive
Concord Township, Ohio 44077
dmpete@concentric.net

Pursuant to Section 101.622 of the Illinois Pollution Control Board's Rules, 35 Ill. Adm. Code 101.622, you are hereby ordered to present yourself for a deposition on **May 10, 2018, at 9:30 a.m.**, at the Residence Inn by Marriott Cleveland Mentor, 5660 Emerald Court, Mentor, Ohio 44060. You are further directed to produce copies of all documents identified in the attached rider to this subpoena.

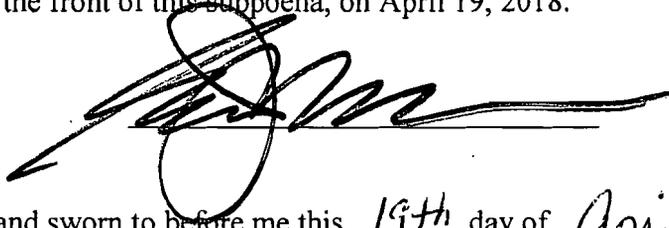
ENTER:



Don A. Brown, Assistant Clerk
Pollution Control Board

Date: April 19, 2018

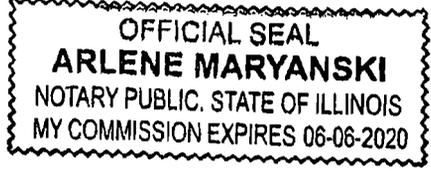
I, Evan J. McGinley, Assistant Attorney General, and counsel for Respondent, hereby swear that I served this subpoena *duces tecum* by sending a copy of the same, along with a check for the statutory witness fee and mileage, by certified mail, to the deponent, at the address listed on the front of this subpoena, on April 19, 2018.



Subscribed and sworn to before me this 19th day of April,

2018.

Arlene Maryanski
Notary Public



RIDER

DEFINITIONS

1. "Communication" shall mean, without limitation, any and all forms of transferring information, including discussions, conversations, meetings, conferences, interviews, negotiations, agreements, understandings, inquiries, correspondence, documents, or other transfers of information whether written or oral or by any other means, including electronic and includes any document which abstracts, digests, transcribes or records any communication.

2. "Complainant" shall mean Johns Manville and any of Complainant's employees, agents, representatives, successors or assigns, or any other person acting or believed by Complainant to have acted on its behalf.

3. "Consultant" shall mean any type of environmental professional, including, but not limited to, any type of engineer, geologist, hydrologist, chemist, retained for the purpose of conducting environmental studies of the Site or Facility.

4. "Document" or "documents" shall be construed in its customary broad sense and shall include, but is not limited to, the original and any non-identical copy, whether different from the original because of notes made on said copy or otherwise, or any agreement, bank record or statement; book of account, including any ledger, sub-ledger, journal, or sub-journal; brochure; calendar; chart; check; circular; communication (intra- or inter-company or governmental entity or agency or agencies); contract; copy; correspondence; diary; draft of any document; electronic mail (e-mail); facsimile (fax); graph; index; instruction; instruction manual or sheet; invoice; job requisition; letter; log; license; manifest; manual; memorandum; minutes; newspaper or other clipping; note; note book; opinion; pamphlet; paper; periodical or other publication; photograph; print; receipt; record; recording; report; statement; study; summary including any memorandum, minutes, note record, or summary of any (a) telephone, videophone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference; telegram; telephone log; ticket; travel or expense record; trip ticket; voucher; worksheet or working paper; writing; any other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information inquired of may be obtained, or any other documentary material of any nature, in the possession, custody or control of the Respondent.

5. "Johns Manville" shall mean Johns Manville and any of its officers, directors, employees, agents, representatives, successors or assigns, or any other person acting on behalf of Johns Manville.

6. "Or" shall mean and/or wherever appropriate.

7. "Related to" or "relating to" or "in relation to" shall mean anything which, directly or indirectly, concerns, consists of, pertains to, reflects, evidences, describes, sets forth, constitutes, contains, shows, underlies, supports, refers to in any way, is or was used in the preparation of, is appended to, is legally, logically or factually connected with, proves, disproves, or tends to prove or disprove.

8. "Site 3" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

9. "Site 6" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

10. "Southwestern Sites" shall have the same meaning as used in the February 2016 Remedial Action Work Plan.

11. "AOC" shall mean the 2007 Administrative Settlement Agreement and Order on Consent for Removal Action, USEPA Region, CERCLA Docket No. VW '07-C-870.

12. "You" and "your" shall refer to the deponent, David M. Peterson, P.E.

13. "Removal action" shall refer to the removal action which Johns Manville and Commonwealth Edison were required to undertake, pursuant to USEPA's November 30, 2012 Enforcement Action Memorandum ("EAM").

14. "Selected Remedy" shall refer to the remedy for the Southwestern Sites which was selected by the USEPA.

15. "Contractor" shall refer to any third party retained or overseen by you to perform or conduct any site investigation, removal, construction or other work at the Sites.

16. "Interim Order" shall refer to the Pollution Control Board's December 15, 2016 Interim Opinion and Order in this matter.

17. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated under the Act, in which case the appropriate or regulatory definitions shall apply.

DOCUMENTS TO BE PRODUCED AT YOUR DEPOSITION

1) Copies of any and all documents relating to the implementation of the Removal Action or Selected Remedy at the Sites 3 or 6.

- 2) Copies of any and all documents relating to any issue regarding the costs associated with the performance of the Removal Action or Selected Remedy at the Sites 3 or 6.
- 3) Copies of any and all documents regarding the development of the bid specifications for "Contract for Construction/Remediation Services, Contract # 4900010523".
- 4) Copies of all documents related to any review which you conducted of the bills submitted by any contractor to Johns Manville, relative to work performed or conducted at Sites 3 and 6.
- 5) Copies of any and all documents that relate to any communications that you had with any contractor regarding the costs billed by that contractor to Johns Manville, relative to work which that contractor performed at Sites 3 and 6.
- 6) Copies of all drafts of your November 2017 Construction Completion Report.
- 7) Copies of all other documents related to your November 2017 Construction Completion Report.

OFFICE OF THE ATTORNEY GENERAL 10-13
SPECIAL ADVANCE FUND
 100 WEST RANDOLPH STREET
 CHICAGO, IL 60601

2112
70-2189/719
768

Date April 19, 2018

Pay to the Order of: David Peterson \$ 23.26
Twenty-three Dollars and 26/100 Dollars

PNC BANK
 PNC Bank, N.A. 071

For: 1245/Environmental Eric Stach

⑆07192189⑆ 480485338 2112

Horizontal Clarks

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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7016 2070 0000 2623 1719
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
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Sent To: Mr. David M. Peterson, P.E.
7000 Bridlewood Drive
Concord Township, OH 44077

City, State, ZIP

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. David M. Peterson, P.E.
 7000 Bridlewood Drive
 Concord Township, OH 44077

9590 9402 2163 6193 4410 64

2. Article Number (Transfer from service label)
 7016 2070 0000 2623 1719

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X
 Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

Domestic Return Receipt